

KANSAS MEDICAID STATE PLAN

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LICENSURE

Cross References to Related Sections:

Reporting abuse or neglect of residents of adult care homes and certain medical care facilities, see K.S.A. 39-1401 et seq.

39-923. Definitions. (a) As used in this act:

(1) "Adult care home" means any skilled nursing home, intermediate nursing care home, intermediate personal care home, one-bed adult care home and two-bed adult care home and any boarding care home, all of which classifications of adult care homes are required to be licensed by the secretary of health and environment. Adult care home does not mean adult family home.

(2) "Skilled nursing home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves, and for whom reception, accommodation, board and skilled nursing care and treatment is provided, and which place or facility is staffed to provide 24 hours a day licensed nursing personnel plus additional staff, and is maintained and equipped primarily for the accommodation of individuals who are not acutely ill and are not in need of hospital care but who require skilled nursing care.

(3) "Intermediate nursing care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervised nursing care and treatment is provided, and which place or facility is staffed to provide at least eight hours a day for at least five days a week licensed nursing personnel plus additional staff and is maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care or skilled nursing care but who require supervised nursing care.

(4) "Intermediate personal care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment or simple nursing care is provided, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care, skilled nursing home care or moderate nursing care but who require domiciliary care and simple nursing care.

(5) "One-bed adult care home" and "two-bed adult care home" means any place or facility which place or facility may be a private residence and which place or facility is operating for not less than 24 hours in any week and caring for one or two individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment and skilled nursing care, supervised nursing care or simple nursing care is provided by the adult care home, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care but who require domiciliary care and skilled nursing care, supervised nursing care or simple nursing care provided by the adult care home. When the home's capabilities are questioned in writing, the licensing agency shall determine according to its rules and regulations if any restriction will be placed on the care the home will give residents.

(6) "Boarding care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves

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and for whom reception, accommodation, board and supervision is provided and which place or facility is staffed, maintained and equipped primarily to provide shelter to residents who require some supervision, but who are ambulatory and essentially capable of managing their own care and affairs.

(7) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(8) "Skilled nursing care" means services commonly performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel for individuals requiring 24 hour a day care by licensed nursing personnel including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions requiring substantial specialized judgment and skill based on the knowledge and application of scientific principles.

(9) "Supervised nursing care" means services commonly performed by or under the immediate supervision of licensed nursing personnel at least eight hours a day for at least five days a week including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other selected functions requiring specialized judgment and certain skills based on the knowledge of scientific principles.

(10) "Simple nursing care" means selected acts in the care of the ill, injured or infirm requiring certain knowledge and specialized skills but not requiring the substantial specialized skills, judgment and knowledge of licensed nursing personnel.

(11) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(12) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

(13) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(14) "Licensing agency" means the secretary of health and environment.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, hospitals or institutions for the treatment and care of psychiatric patients, boarding homes for children under the age of 16 years, day nurseries, child caring institutions, maternity homes, hotels or offices of physicians.

(c) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

History: L. 1961, ch. 231, § 1; L. 1967, ch. 246, § 1; L. 1972, ch. 171, § 1; L. 1975, ch. 462, § 39; L. 1978, ch. 161, § 11; L. 1982, ch. 189, § 1; L. 1983, ch. 146, § 1; April 21.

Cross References to Related Sections:

Adult care home lawsuit settlement fund, see 75-5341, 75-5342.

Research and Practice Aids:

Social Security and Public Welfare § 6.

C.J.S. Social Security and Public Welfare § 10.

CASE ANNOTATIONS

1. Mentioned; action by nursing homes for recovery of reasonable charges for services rendered. *Seneca Nursing Home v. Kansas State Bd. of Social Welf.*, 490 F.2d 1324, 1330, 1333.

2. Licensure and certification denied; appellate court review limited as district court; broader review dilutes advantage of fact-finding by specialized agency. *Boswell, Inc. d/b/a Reno County Adult Care Home v. Harkins*, 230 K. 610, 611, 640 P.2d 1202 (1982).

3. Provisions for licensure of adult care homes not unlawful delegation of legislative authority; not vague and indefinite. *Boswell, Inc. d/b/a Broadacres v. Harkins*, 230 K. 738, 740, 741, 640 P.2d 1208 (1982).

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39-824. Purpose of act. The purpose of this act is the development, establishment, and enforcement of standards (1) for the care, treatment, health, safety, welfare and comfort of individuals in adult care homes licensed by the secretary of health and environment and (2) for the construction, general hygiene, maintenance and operation of said adult care homes, which, in the light of advancing knowledge, will promote safe and adequate accommodation, care and treatment of such individuals in adult care homes.

History: L. 1961, ch. 231, § 2; L. 1972, ch. 171, § 2; L. 1975, ch. 462, § 40; July 1.

CASE ANNOTATIONS

1. Denial of licensure for repeated violations not arbitrary, reasonable relation to lawful purpose of act. Boswell, Inc. d/b/a Reno County Adult Care Home v. Harkins, 230 K. 610, 615, 640 P.2d 1202 (1982).

2. Statutory provisions not unlawful delegation of legislative authority; not vague and indefinite. Boswell, Inc. d/b/a Broadacres v. Harkins, 230 K. 738, 741, 640 P.2d 1206 (1982).

39-825. Administration of act. The administration of this act shall be under the secretary of health and environment as the licensing agency in conjunction with the state fire marshal, and shall have the assistance of the county, city-county or multi-county health departments, local fire and safety authorities and other agencies of government in this state.

History: L. 1961, ch. 231, § 3; L. 1975, ch. 462, § 41; L. 1980, ch. 182, § 10; July 1.

39-826. License required to operate; compliance with regulations. It shall be unlawful for any person or persons acting individually or severally to operate an adult care home within this state except upon license had and obtained for that purpose from the secretary of health and environment as licensing agency upon application made for as provided in this act, and compliance with the requirements, standards, and regulations, promulgated under provisions.

History: L. 1961, ch. 231, § 4; L. 1972, ch. 462, § 3; L. 1975, ch. 462, § 42; L. 1978, ch. 462, § 11; July 1.

and Practice Aids:

3.
Asylums § 5.

CASE ANNOTATIONS

1. Agency specifically authorized to establish standards for licensure and operation; no unlawful delegation of authority. Boswell, Inc. d/b/a Broadacres v. Harkins, 230 K. 738, 741, 640 P.2d 1206 (1982).

39-826a. Limitation on number of persons licensed to operate adult care home; application of section; section supplemental to adult care home licensure act. (a) Except as otherwise provided in this section, no more than three different persons shall be licensed to operate any one adult care home under the adult care home licensure act, and no license to operate any one adult care home shall be issued under that act to more than three different persons. The provisions of this section shall not apply to any license to operate an adult care home which is in effect on the effective date of this act and which is issued to more than three different persons, or the renewal of any such license, unless subsequent to the effective date of this act three or fewer persons operate the adult care home or the license to operate the adult care home is denied or revoked.

(b) This section shall be part of and supplemental to the adult care home licensure act.

History: L. 1983, ch. 141, § 1; April 21.

39-827. Application for license; contents; application for license to operate new intermediate nursing care home for the mentally retarded; limitations. An application for a license to operate an adult care home shall be made in writing to the licensing agency upon forms provided by it and shall be in such form and shall contain such information as the licensing agency shall require, which may include affirmative evidence of the applicant's ability to comply with such reasonable standards and rules and regulations as are adopted under the provisions of this act. The application shall be signed by the person or persons seeking to operate an adult care home, as specified by the licensing agency, or by a duly authorized agent of any person so specified. Any nonprofit corporation operating an intermediate nursing care home for the mentally retarded which, on the effective date of this act, includes more than one residential building located on one site or on contiguous sites may apply for a

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license to operate a new intermediate nursing care home for the mentally retarded which includes more than one residential building located on one site or on contiguous sites and may apply for one license for each residential building located on the new site, except that total resident population at any such location shall not exceed 75 residents.

History: L. 1961, ch. 231, § 5; L. 1972, ch. 171, § 4; L. 1976, ch. 280, § 21; L. 1982, ch. 189, § 2; L. 1985, ch. 150, § 1; July 1.

39-928. Issuance of license, when; inspections and investigations; reports; time license effective; nontransferable; display; contents of license. Upon receipt of an application for license, the licensing agency with the approval of the state fire marshal shall issue a license if the applicant is fit and qualified and if the adult care home facilities meet the requirements established under this law. The licensing agency, the state fire marshal, and the county, city-county or multicounty health departments or their designated representatives shall make such inspections and investigations as are necessary to determine the conditions existing in each case and a written report of such inspections and investigations and the recommendations of the state fire marshal and the county, city-county or multicounty health department or their authorized agents shall be filed with the licensing agency. The licensing agency and the state fire marshal may designate and use county, city-county or multicounty health departments and local fire and safety authorities as their agents in making such inspections and investigations as are deemed necessary or advisable. Such local authorities are hereby authorized, empowered and directed to perform such duties as are designated. A copy of any inspection reports required by this section shall be furnished to the applicant.

A license, unless sooner suspended or revoked, shall remain in effect upon filing by the licensee, and approval by the licensing agency and the state fire marshal or their duly authorized agents, of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes and payment of an annual fee. Each license shall be issued only for the premises and per-

sons named in the application and shall not be transferable or assignable. It shall be posted in a conspicuous place in the adult care home. If the annual report is not so filed and annual fee is not paid, such license is automatically canceled. Any license granted under the provisions of this act shall state the type of facility for which license is granted, number of residents for which granted, the person or persons to whom granted, the date and such additional information and special limitations as are deemed advisable by the licensing agency.

History: L. 1961, ch. 231, § 6; L. 1972, ch. 171, § 5; L. 1980, ch. 182, § 11; L. 1989, ch. 126, § 1; July 1.

CASE ANNOTATIONS

1. Cited, preemption of state law and regulations by federal law and regulations regarding Medicaid reimbursement examined *Americare Properties, Inc. v. S.R.S.*, 241 K. 607, 610, 738 P.2d 450 (1987).

39-929. Provisional license, approval; terms; extension. A provisional license may be issued to any adult care home, the facilities of which are temporarily unable to conform to all the standards, requirements, rules and regulations established under the provisions of this act: *Provided, however,* That the issuance of such provisional license shall be approved by the state fire marshal. A provisional license may be issued to provide time to make necessary corrections for not more than six (6) months. One additional successive six-month provisional license may be granted at the discretion of the licensing agency. A change of ownership during the provisional licensing period will not extend the time for the requirements to be met that were the basis for the provisional license nor entitle the new owner to an additional provisional license.

History: L. 1961, ch. 231, § 7; L. 1972, ch. 171, § 6; July 1.

CASE ANNOTATIONS

1. Past agency error in granting provisional licenses does not abrogate enforcement of section; denial of licensure is not denial of equal protection of law. *Boswell, Inc. d/b/s Reno County Adult Care Home v. Harkins*, 220 K. 610, 614, 640 P.2d 1202 (1982).

39-930. License fee; disposition. The fee for license to operate an adult care home shall be a base amount plus an additional amount for each bed of such home which shall be paid

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to the secretary of health and environment before the license is issued. The fee shall be fixed by rules and regulations of the secretary of health and environment. The fee shall be deposited in the state treasury and credited to the state general fund unless the evaluation and inspection was made by a county, city-county or multicounty health department at the direction of the secretary of health and environment and the papers required are completed and filed with the secretary, then 40% of the fee collected shall be forwarded to such county, city-county or multicounty health department. If a facility has a change of administrator after the commencement of the licensing period, the fee shall be \$15 and shall be deposited in the state treasury and credited to the state general fund.

History: L. 1961, ch. 231, § 8; L. 1972, ch. 171, § 7; L. 1975, ch. 462, § 43; L. 1980, ch. 182, § 12; L. 1982, ch. 189, § 3; L. 1983, ch. 286, § 1; L. 1988, ch. 145, § 1; July 1.

39-931. Denial, suspension or revocation of license: notice; hearing; appeal. Whenever the licensing agency finds a substantial failure to comply with the requirements, standards or rules and regulations established under this act or that a receiver has been appointed under K.S.A. 39-958 and amendments thereto, it shall make an order denying, suspending or revoking the license after notice and a hearing in accordance with the provisions of the Kansas administrative procedure act.

Any applicant or licensee who is aggrieved by the order may appeal such order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

History: L. 1961, ch. 231, § 9; L. 1975, ch. 462, § 44; L. 1978, ch. 162, § 12; L. 1982, ch. 258, § 1; L. 1983, ch. 147, § 1; L. 1984, ch. 313, § 65; July 1, 1985.

Law Review and Bar Journal References:

"Administrative Law: The Kansas Commission on Civil Rights—True De Novo Review Arrives," Samuel D. Ogelsby, 16 W.L.J. 161, 163 (1976).

"Judicial Review of Administrative Action—Kansas Perspectives," David L. Ryan, 19 W.L.J. 423, 433 (1980).

CASE ANNOTATIONS

1. Review by appellate court limited as district courts; broader review dilutes advantage of fact-finding by specialized agency. *Boswell, Inc. d/b/a Reno County Adult Care Home v. Harkins*, 230 K. 610, 612, 614, 617, 640 P.2d 1202 (1982).

2. De novo review of administrative proceedings denied; court review limited in scope. *Boswell, Inc. d/b/a Broadacres v. Harkins*, 230 K. 738, 740, 640 P.2d 1208 (1982).

39-931a. Denial, suspension or revocation of license; grounds; "person" defined. (a) As used in this section the term "person" means any person who is an applicant for a license to operate an adult care home or who is the licensee of an adult care home and who has any direct or indirect ownership interest of twenty-five percent (25%) or more in an adult care home or who is the owner, in whole or in part, of any mortgage, deed of trust, note or other obligation secured, in whole or in part, by such facility or any of the property or assets of such facility, or who, if the facility is organized as a corporation, is an officer or director of the corporation, or who, if the facility is organized as a partnership, is a partner.

(b) Pursuant to K.S.A. 39-931, the licensing agency may deny a license to any

39-932. Adoption and enforcement of rules, regulations and standards. The licensing agency shall adopt, amend, promulgate and enforce such rules, regulations and standards as may be deemed practicable, reasonable and necessary with respect to all adult care homes, to be licensed hereunder and as may be designed to further the accomplishment of the purpose of this law in promoting safe, proper and adequate treatment and care of individuals in adult care homes in the interest of public health, safety and welfare. Such rules and regulations may prescribe minimum standards and requirements relating to the location, building, construction, size, equipment and facilities of adult care homes, the number and kind of residents allowed, the types of care offered, the records to be kept, the kind and frequency of reports and inventories to be made, and may

generally establish such requirements as may be deemed necessary to protect the health, safety, hygiene, welfare and comfort of the residents.

Adult care homes which are in operation at the time of promulgation of any applicable rules and regulations or minimum standards under this act shall be given a reasonable time, under the particular circumstances not to exceed twelve (12) months from the date of such promulgation, within which to comply with such rules and regulations and minimum standards. The licensing agency may further establish by regulation a system whereby it may, on the basis of the investigations and evaluations herein provided for, uniformly rate adult care homes in terms of the quality and quantity of services and facilities provided.

History: L. 1961, ch. 231, § 10; L. 1972, ch. 171, § 8, July 1.

39-932a. Adult care homes in less than an entire building. The licensing agency shall provide by rules and regulations for the licensing of adult care homes in any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, in addition to licensing of adult care homes in entire buildings. In the case of adult care homes in less than an entire building, the licensing agency shall prescribe acceptable use and occupancy of the balance of such building, and shall prohibit those uses and occupancies which are deemed to be contrary to the public interest.

History: L. 1967, ch. 246, § 2; April 21.

39-933. Inspections and investigations; regulations for changes in facilities. The licensing agency shall make or cause to be made by the county, city-county or multicounty health departments such inspections and investigations as it deems necessary. The licensing agency may prescribe by regulation that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall submit plans and specifications therefor, before commencing such alterations, additions or new construction, to the licensing agency for preliminary inspection and approval or recommenda-

tions with respect to compliance with the regulations and standards herein authorized. Necessary conferences and consultations may be provided.

History: L. 1961, ch. 231, § 11; L. 1980, ch. 182, § 13; July 1.

Research and Practice Aids:

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C.J.S. Asylums § 5.

39-934. Certain information confidential. Information received by the licensing agency through filed reports, inspections, or as otherwise authorized under this law, shall not be disclosed publicly in such manner as to identify individuals.

History: L. 1961, ch. 231, § 12; L. 1972, ch. 171, § 9; L. 1975, ch. 238, § 1; July 1.

Revisor's Note:

Exclusion of media from hearings, see *Kansas Benchbook*, Kansas Judicial Council, p. 226b

39-935. Inspections; reporting; access to premises; exit interviews; unannounced inspections; inspection reports, posting and access. Inspections shall be made and reported in writing by the authorized agents and representatives of the licensing agency and state fire marshal, and of the county, city-county and multicounty health departments as often and in the manner and form prescribed by the rules and regulations promulgated under the provisions of this act. Access shall be given to the premises of any adult care home at any time upon presenting adequate identification to carry out the requirements of this section and the provisions and purposes of this act, and failure to provide such access shall constitute grounds for denial or revocation of license. A copy of any inspection reports required by this section shall be furnished to the applicant, except that a copy of the preliminary inspection report signed jointly by a representative of the adult care home and the inspector shall be left with the applicant when an inspection under this section is completed. This preliminary inspection report shall constitute the final record of deficiencies assessed against the adult care home during the inspection, all deficiencies shall be specifically listed and no additional deficiencies based upon the data developed at that time shall be assessed at a later time. An exit interview shall be conducted in conjunction with the joint signing of the preliminary inspection report.

The authorized agents and representatives of the licensing agency shall conduct at least one unannounced inspection of each adult care home within 15 months of any previous inspection for the purpose of determining whether the adult care home is complying with applicable statutes and rules and regulations relating to the health and safety of the residents of the adult care home. The statewide average interval between inspections shall not exceed 12 months.

Every adult care home shall post in a conspicuous place a notice indicating that the most recent inspection report and related documents may be examined in the office of the administrator of the adult care home. Upon request, every adult care home shall provide to any person a copy of the most recent inspection report and related documents, provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

History: L. 1961, ch. 231, § 13; L. 1972, § 171, § 10; L. 1977, ch. 152, § 1; L. 1978, § 162, § 13; L. 1980, ch. 182, § 14; L. 1989, § 126, § 2; July 1.

Review and Bar Journal References:

"Nursing Home Tort Litigation," Michael E. Callen, X No. 1, J.K.T.L.A. 17 (1986).

§-836. Statement on admission; qualified personnel; education and training of unlicensed personnel; requirements of licensing agency; rules and regulations; examination and examination fee; supplier of medication; limitations on involuntary transfer or discharge of resident; effect of reliance upon artificial means or prayer for healing by resident. (a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such charges and the adult care home shall keep a copy of such statement in the resident's file. Such statement shall be construed to relieve the adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

(b) A qualified person or persons shall be in attendance at all times upon residents receiving accommodation, board, care, training or treatment in adult care homes. The licensing

agency may establish necessary standards and rules and regulations prescribing the number, qualifications, training, standards of conduct and integrity for such qualified person or persons attendant upon the residents.

(c) (1) Unlicensed employees of an adult care home who provide direct, individual care to residents under the supervision of qualified personnel and who do not administer medications to residents shall not be required by the licensing agency to complete a course of education or training or to successfully complete an examination as a condition of employment or continued employment by an adult care home during their first 90 days of employment.

(2) The licensing agency shall require unlicensed employees of an adult care home employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the licensing agency or are not participating in such a course on the effective date of this act to complete successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the licensing agency shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the licensing agency. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training required by the licensing agency under subsection (c)(3).

(3) The licensing agency may require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home -

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premises of the adult care home and which will administer instruction. The licensing agency shall prepare guidelines and administration of the home shall approve or disapprove. Unlicensed employees who provide direct, indirect, and who do not admit residents to enroll in the approved course of instruction shall be prescribed by the licensing agency. The licensing agency shall be reasonably informed by unlicensed employees who provide direct, indirect, and who do not admit residents to enroll in the approved course of instruction shall be prescribed by the licensing agency.

shall fix, charge, or receive for the examination and instruction (c). The examination rules and regulations shall be prescribed by the licensing agency. The licensing agency shall be reasonably informed by unlicensed employees who provide direct, indirect, and who do not admit residents to enroll in the approved course of instruction shall be prescribed by the licensing agency.

Nothing in this subsection (f) shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

History: L. 1961, ch. 231, § 14; L. 1972, ch. 171, § 11; L. 1977, ch. 152, § 2; L. 1978, ch. 162, § 14; L. 1979, ch. 131, § 1; L. 1983, ch. 148, § 1; L. 1983, ch. 286, § 10; L. 1989, ch. 126, § 3; July 1.

Law Review and Bar Journal References:
"Nursing Home Tort Litigation," Michael E. Callen, Vol. X, No. 1, J.K.T.L.A. 17 (1986).

39-937. Compliance with other laws and regulations. All pertinent laws of this state and lawfully adopted ordinances and rules and regulations shall be strictly complied with in the operation of any adult care home in this state.

History: L. 1961, ch. 231, § 15; L. 1972, ch. 171, § 12; July 1.

39-938. Compliance with requirements and rules and regulations of licensing and other agencies; exceptions. Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary of health and environment and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. The administrative rules and regulations of the state board of cosmetology and of the board of barber examiners shall not apply to adult care homes.

History: L. 1961, ch. 231, § 16; L. 1972, ch. 171, § 13; L. 1975, ch. 462, § 45; July 1.

39-939. Unlawful acts. It shall be unlawful in any adult care home to house, care

:(a) Any resident to stay in any room, area, or detached build-

, neglect, or cruel treatment of

mission to resident status of any is known to suffer from any condition for which the home is ed to provide care under the f this act or the terms and cons- s license.

L. 1961, ch. 231, § 17; L. 1972, § 1; July 1.

Forms for application, reports, inspections; records open to unlawful acts. (a) The secretary and environment may prescribe necessary forms for applications, ords and inspections for adult All prescribed records shall be ection by the designated agents ies administering this act. ill be unlawful to:

false entries in such records; any information required or lse report concerning any adult

ause to be filed such false or ords or reports with the de- ealth and environment or with administering this act, knowing eords or reports are false or

L. 1961, ch. 231, § 18; L. 1972, ; L. 1975, ch. 462, § 46; L. 1981, . July 1.

Adult care homes; license and certain organizations exempt. this act shall be construed to y licensed general hospital or care facility operated by and in with a licensed hospital, or to e home operated by a bona fide ligious order exclusively for the bers of such order, and no rules, or standards shall be made or under this act for any adult care lucted in accordance with the d principles of the body known ch of Christ Scientist, except as ruction, sanitary and safe condi- premises, cleanliness of opera- physical equipment. Any orga- emptied by this provision may

apply for and receive a license, provided it meets the requirements of this act.

History: L. 1961, ch. 231, § 19; L. 1972, ch. 171, § 16; L. 1977, ch. 153, § 1; May 13.

39-942. License in effect on effective date of act continued in effect; exceptions. All licenses, issued under the provisions of chapter 39, article 9, of the Kansas Statutes Annotated, for adult care homes or homes for the aged in force upon the taking effect of this act shall continue in force until the date of expiration unless sooner suspended or revoked as provided in this act: *Provided*, That all persons with such licenses in force upon the effective date of this act shall be permitted no less than four (4) months from their effective date to comply with the rules, regulations and standards promulgated under the authority of this act wherein those rules, regulations and standards differ in any substantial respect from those in force and effect immediately prior to the effective date hereof under the provisions of chapter 39, article 9 of the Kansas Statutes Anno- tated.

History: L. 1961, ch. 231, § 20; L. 1972, ch. 171, § 17; July 1.

39-943. Penalties. Any person operat- ing an adult care home in this state without a license under this law shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$100, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Any per- son who shall violate any other provision of this act or the requirements of any rules and regulations promulgated hereunder shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not more than \$100, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and im- prisonment.

History: L. 1961, ch. 231, § 21; L. 1972, ch. 171, § 18; L. 1982, ch. 189, § 4; Jan. 1, 1983.

39-944. Injunctions and other process. Notwithstanding the existence or pursuit of any other remedy, the secretary of health and environment, as the licensing agency, in the manner provided by the act for judi- cial review and civil enforcement of agency actions, may maintain an action in the name